

EXHIBIT 13

DKT NO: X06-UWY-CV186046436-S : COMPLEX LITIGATION DKT
ERICA LAFFERTY :
v. : JUDICIAL DISTRICT WATERBURY
: AT WATERBURY, CONNECTICUT
ALEX EMRIC JONES : OCTOBER 20, 2021

DKT NO: X06-UWY-CV186046437-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

DKT NO: X06-UWY-CV186046438-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

HEARING

BEFORE THE HONORABLE BARBARA N. BELLIS, JUDGE

A P P E A R A N C E S :

Representing the Plaintiff(s):

ATTORNEY CHRISTOPHER MATTEI
ATTORNEY ALINOR STERLING
ATTORNEY MATTHEW BLUMENTHAL
ATTORNEY SARAH STEINFELD

Representing the Defendant(s):

ATTORNEY JAY MARSHALL WOLMAN for defendant Alex Jones
ATTORNEY WESLEY HORTON for Attorney Wolman
ATTORNEY CAMERON ATKINSON for the LLC defendant's
ATTORNEY MARIO CERAME for defendant Genesis Comm.

Recorded By:
Darlene Orsatti

Transcribed By:
Darlene Orsatti
Court Recording Monitor
400 Grand Street
Waterbury, CT 06702

1 THE COURT: All right. Good morning. Do you
2 need a minute Attorney Wolman?

3 ATTY. WOLMAN: No, your Honor. Trying to just
4 change the name on the system and that doesn't seem
5 to be working, so....

6 THE COURT: I see your name.

7 ATTY. WOLMAN: I wanted to add Attorney Horton's
8 name.

9 ATTY. HORTON: Yes.

10 THE COURT: Okay.

11 ATTY. HORTON: Good morning, your Honor. My
12 name is Wesley Horton and I'm representing Attorney
13 Wolman on the order to show cause.

14 THE COURT: Very well. Is there an appearance
15 in the file?

16 ATTY. HORTON: I filed - I fax/filed an
17 appearance on late - on Monday, but I haven't seen it
18 on the computer, so. But we have filed it and I
19 believe the other counsel has it. Also, your Honor,
20 I would appreciate it -

21 THE COURT: So -

22 ATTY. HORTON: I'm sorry.

23 THE COURT: Why don't we just hold off?
24 Attorney Horton, I will follow through with Attorney
25 Ferraro to see if he can locate your filings. All
26 right. So -

27 ATTY. HORTON: I have them in front of me. I

1 actually did file them. I also have a problem, your
2 Honor. I'm only on the order to show cause and I
3 have another Court hearing at 11:30. So, I would
4 appreciate it if I could be heard early.

5 THE COURT: Yeah. I don't think that's going to
6 happen, so why don't we see how we proceed. Maybe
7 we'll be very efficient and get to that point.

8 Okay. So this is Judge Bellis for the record
9 and we are in the case, the three consolidated cases
10 of Lafferty versus Jones, Docket No. Waterbury
11 Complex Litigation, 186046436. I'm going to just ask
12 counsel of record to identify themselves. I don't
13 have to have Attorney Horton re-identify himself,
14 since we already got him on the record. And once I
15 hear just from counsel of record, I don't need anyone
16 else to identify themselves. Then I will address the
17 media request that was made in the case.

18 So starting with plaintiff's counsel.

19 ATTY. MATTEI: Good morning, your Honor. This
20 is Chris Mattei on behalf of the plaintiff's. I'm
21 joined today by my colleagues Alinor Sterling, Sarah
22 Steinfeld and Matthew Blumenthal.

23 THE COURT: All right. And for the defendant's.

24 ATTY. WOLMAN: Good morning, your Honor. This
25 is Jay Wolman of Randazza Legal Group representing
26 Alex Jones, Infowars, LLC, Infowars Help, LLC, Free
27 Speech Systems, LLC and Prison Planet T.V., LLC. I'm

1 joined by my colleague Attorney Cameron Atkinson from
2 Pattis & Smith, who represents the four LLC
3 defendant's that I referenced.

4 THE COURT: All righty.

5 ATTY. CERAME: Good morning, your Honor. Mario
6 Cerame for Genesis Communications from Brignole, Bush
7 and Lewis.

8 THE COURT: Okay. All right. So I'm going to
9 ask - and good morning everyone. I'm going to ask
10 everyone to make sure your devices are muted. I see
11 that some of you are not muted. I'm going to try to
12 do the same so that it's a little easier for our
13 Court Reporter to take down everything without any
14 feedback. And I'm sure that at some point I'll
15 forget to unmute or counsel will forget to unmute,
16 and I'm sure we'll deal with that.

17 So yesterday there was a request from
18 Connecticut Public Radio to audiotape the
19 proceedings. I know that Mr. Ferraro reached out to
20 counsel of record to see if there was any objection.
21 I think we heard from everyone except for the -
22 except from Attorney Wolman. So did you have an
23 objection, sir?

24 ATTY. WOLMAN: No objection, your Honor.

25 THE COURT: All right. So at this point then
26 having no objection, the audiotape proceedings can
27 now begin at this point if they still wish to do so.

1 All right. So what I thought I would do, is I
2 have an agenda of how I planned to proceed. We'll
3 see how far we get today and then I have some items
4 that will be on the next agenda. So I'm going to go
5 through all that first, and just sort of get everyone
6 up to speed as to how we're going to proceed. And
7 then I'm going to do my old standby where I ask
8 counsel if there is anything that they have that's
9 ready to be adjudicated today or needs a briefing
10 schedule, so that we can do the same thing that we do
11 every time.

12 So I'm going to start with the plaintiff's
13 motion to seal and then we're going to move to the
14 defendant's motion to dismiss with respect to
15 Lafferty and the plaintiff's motion to substitute.
16 I'm then planning on hearing arguments. I'm going to
17 leave out the claim of manufacturer to trial balances
18 in the Flores issue, so that a surreply can be filed.
19 So that will be dealt with at the next hearing. But
20 I will hear argument on the discovery issues, as it
21 relates to the Google analytics. Discovery to social
22 media discovery. The Clinton deposition issue, and
23 the defendant's discovery to date.

24 And then I was planning on addressing the show
25 cause hearing for Attorney Wolman. So the next time
26 we have our status conference, which I believe is
27 November 17th, in addition to dealing with the

1 plaintiff's motion regarding the claim of a
2 manufactured trial balances, I'm going to direct Mr.
3 Ferraro to docket the October 12 motion to seal that
4 was filed at entry number 507. Just give me one
5 moment. I don't think it's 507. So I have - just
6 one moment. I know we have two motions to seal that
7 are going to go on the next hearing. So I have entry
8 number 515, which was filed on October 18th that was
9 the plaintiff's motion to seal. And I have the
10 defendant's motion to seal at entry number 510, and
11 that was filed on October 14th. Mr. Ferraro, is
12 there a third motion to seal or are those the only
13 two motions to seal?

14 THE CLERK: Those are the two new one's your
15 Honor. The third is the one we're going to argue
16 today.

17 THE COURT: Okay. Very well.

18 ATTY. WOLMAN: Your Honor, if I may interject.
19 Your Honor has asked us by 5 p.m. to file our
20 surreply. I should note that there may be the case
21 that we will need to file a motion to seal relative
22 to an un-redacted version of that surreply. And I
23 would ask because of the timing, the short timing
24 that while we can lodge a redacted version certainly
25 by 5 p.m. today, I would like to be able to lodge the
26 motion to seal on the un-redacted version by 5 p.m.
27 tomorrow. If that's all right.

1 THE COURT: I don't have a problem with that.
2 That's fine. All right. So just give me one moment.

3 THE CLERK: Your Honor, if that gets filed sort
4 of by tomorrow, that other motion to seal, that is
5 enough time to hear that one on the 17th.

6 THE COURT: All right. So -

7 THE CLERK: If you chose to do so.

8 THE COURT: All right. So that motion to seal,
9 if it is in fact filed, I'll instruct you to please
10 docket that for our next hearing date, which is
11 November 17th.

12 THE CLERK: Yes, your Honor.

13 THE COURT: Okay. So besides what I've laid out
14 for our agenda to address today, and what I've
15 already mentioned that we're going to address next
16 time, I'm going to ask counsel as we do every time,
17 to identify anything else that counsel believes is
18 ready to be adjudicated today. And then I'll turn to
19 anything that counsel has filed since our last status
20 conference that needs a briefing schedule.

21 So I'm going to actually start with you Attorney
22 Cerame, since you generally identify yourself last.
23 Let me let you be first this time.. Is there anything
24 sir, that I haven't mentioned that you filed that you
25 feel is ready to be adjudicated today?

26 ATTY. CERAME: I don't believe so, your Honor.

27 THE COURT: Thank you. And is there anything

1 that you filed sir, since our last status conference
2 that needs a briefing schedule?

3 ATTY. CERAME: No, your Honor.

4 THE COURT: Thank you. And I'll turn to
5 Attorney Wolman. Same question. Anything that I
6 haven't mentioned that you believe is ready to be
7 adjudicated today?

8 ATTY. WOLMAN: I don't believe so your Honor.
9 Nor have we filed anything that - anticipating your
10 next question, anything that I believe requires a
11 briefing schedule at this time.

12 THE COURT: Thank you, sir. And then turning to
13 plaintiff's counsel. Same two questions. Just make
14 sure you unmute, please?

15 ATTY. MATTEI: Yup. Your Honor, the only motion
16 that you did not mention, but you previously
17 indicated that you were going to be prepared to
18 address sanctions to today, is the motion for
19 sanctions related to the subsidiary ledgers. I
20 understand that you're putting off the trial balance
21 issue. But that issue I think is ready to go as
22 well.

23 THE COURT: Yeah. I am going to address the
24 issue on the subsidiary ledgers and the trial
25 balances at the next hearing. I think I was too
26 optimistic as to what we were going to be able to do
27 today. And I have other matters today, so we're

1 going to just do what's on the agenda for today. But
2 those will both be on the agenda next time.

3 ATTY. MATTEI: Very well. The only other issue
4 is the one you've already mentioned. Our motion to
5 seal, I supposed that needs a briefing schedule. We
6 indicated in that motion that we don't believe the
7 continued sealing is appropriate. And so I suspect
8 that Attorney Wolman will want to brief that, as will
9 we.

10 THE COURT: All right. So with respect to
11 motion to seal at number 515, which is dated October
12 18th. Any objection from any party? How much time
13 would you need?

14 ATTY. WOLMAN: Our response, your Honor - this
15 is Jay Wolman for the record. I could do two weeks
16 from today is fine.

17 THE COURT: Okay. So that would be - I don't
18 have a calendar close by. Is that November 3rd, Mr.
19 Ferraro? Do you have a calendar?

20 THE CLERK: Yes, your Honor. November 3rd.

21 THE COURT: No reply.

22 ATTY. WOLMAN: And if I may, your Honor? I
23 should add that if Mr. Mattei or other plaintiff's
24 counsel wanted to respond to my motion with respect
25 to the Jacobson deposition that was filed under
26 seal -

27 THE COURT: Yeah.

1 ATTY. WOLMAN: - and my anticipated motion
2 tomorrow, today, whatever, that they may want some
3 time on that as well.

4 ATTY. MATTEI: Your Honor, regarding the -

5 THE COURT: I'm referring to entry number 510,
6 filed on October 14th, the defendant's motion to
7 seal. Is there any reason why we can't use that same
8 date for any objection that might be filed by any
9 party?

10 ATTY. MATTEI: That's fine, Judge.

11 THE COURT: Okay. So November 3, 2021. No
12 reply. All right. And if there is a third motion to
13 seal that is filed by Attorney Wolman, we'll follow
14 that same deadline. Okay. Anything else from you
15 Attorney Wolman on anything that either needs a
16 briefing schedule is ready that I haven't mentioned?

17 ATTY. WOLMAN: No, your Honor, and I apologize
18 for the oversight.

19 THE COURT: Not a problem. Okay. So we'll
20 first take up the plaintiff's motion for seal -
21 motion to seal at requesting other relief. That's at
22 entry number 455. I have the defendant's objection,
23 at number 503, and I have the plaintiff's reply at
24 509. So first, let me just find for the record, that
25 the matter was properly docketed and the public was
26 properly notified on the Judicial Branch Website in a
27 timely manner.

1 And if anyone is - wishes to address the Court
2 on the motion to seal, would you please identify
3 yourself at this time? All right. Having heard no
4 response. I'll start with the movant whenever you're
5 ready. I'm not sure who's arguing it. Attorney
6 Mattei?

7 ATTY. MATTEI: Yes, your Honor, I'll take this.
8 Thank you, Judge. As you know, the Court, I believe
9 since our filing of the motion has ordered us to
10 produce certain documents to the defendant's, covered
11 by this motion pursuant to a designation under the
12 protective order as highly confidential, attorney's
13 eyes only. As a result of that ruling, we think it's
14 even more clear now that the defendant's motion in
15 which they publically disclosed contents of documents
16 that they were not entitled to have at that time, be
17 sealed. Because it relates to information and
18 material that this Court has already determined
19 deserves protection under the protective order. So
20 that's number one.

21 We also want the Court to make clear in its
22 order today, that not only does the designation of
23 those documents as highly confidential attorney's
24 eyes only apply to documents that the defendant's
25 properly received in discovery from us, but applies
26 to any documents that they improperly obtained from
27 Mr. Halbig.

1 We presume that those documents are identical,
2 although the defense to date has refused to provide
3 us with the documents that Mr. Halbig provided to
4 them. So we think that the Courts determination that
5 these documents are deserving of protection, should
6 be dispositive on this issue, and that the
7 defendant's public filing, unnecessary public filing
8 in which they described the documents themselves.
9 Which at that time they were not entitled to have.
10 And which we believe they improperly obtained. And
11 in which they described at least to some degree the
12 contents of those documents, that that should be
13 sealed as well.

14 THE COURT: Thank you. Attorney Wolman.

15 ATTY. WOLMAN: Sorry, your Honor. Thank you.
16 Plaintiff's confused issues, simply pled. What Mr.
17 Halbig sent is not what - is not produced in
18 discovery. What plaintiff's will produce to us is
19 something that is being produced in discovery and can
20 be protected by the protective order. These are two
21 separate issues. And I of course want to address one
22 quick thing. On the notice itself, they haven't
23 identified a single thing that we disclosed as to the
24 contents of it. May have identified who the parties
25 to a document are. That is not disclosing the
26 contents of anything. So I take issue with any
27 accusation regarding that.

1 Similarly, we did not obtain these improperly.
2 No more so than Woodward and Bernstein obtained
3 information from Deep throat improperly, or the New
4 York Times obtained the Pentagon papers improperly.
5 What a third party - because Mr. Halbig is now a
6 third party to this litigation, because the
7 plaintiff's withdrew their claims against him. A
8 third party to this litigation provided documents to
9 us.

10 Whether or not he violated an agreement in doing
11 so, that's between him and the parties to the
12 agreement. And if they - plaintiff's want to take
13 action against him, that may be their prerogative.
14 But that does not hamstring us. We cannot be tied
15 down. The media cannot be tied down when a third
16 party, and The Supreme Court is clear on this, a
17 third party provides us information. Because the -
18 and this is even carved out of the protective order
19 that we agreed to.

20 We would not have agreed to a protective order
21 that did not have this carved out, because these were
22 documents we lawfully obtained. We didn't steal
23 them. We didn't coerce them at the end of a gun. We
24 lawfully obtained them from a third party. We didn't
25 hack into any system. He chose of his own volition
26 to provide them to us. And we gave notice to the
27 Court, because we thought that that

1 was - and to plaintiffs because that was appropriate
2 considering the issues about -

3 THE COURT: I'm going to interrupt you for a
4 second, Attorney Wolman and just - I have a question.
5 I thought I understood that the protective order that
6 you had proposed to the Court and that the Court
7 ultimately adopted dealt with not only discovery from
8 the parties, but it dealt with discovery that was
9 obtained from third parties. And as my recollection
10 serves, this disclosure or the documents were
11 obtained either in connection with or at around the
12 time Mr. Halbig was being deposed. So I understand
13 he was a party and he's no longer a party, but
14 doesn't - you're in the middle of discovery, you were
15 taking his deposition, doesn't your protective order
16 deal with discovery materials that are obtained
17 during discovery?

18 ATTY. WOLMAN: This was not obtained during
19 discovery, your Honor. In fact, a motion for a
20 commission to take his deposition was either pending
21 or had been adjudicated, but no subpoena had issued
22 to Mr. Halbig at that time. So this cannot be said
23 to come through in discovery when he was not the
24 subject of - of the discovery -

25 THE COURT: That doesn't answer my question.
26 Doesn't your protective order encompass materials
27 that were obtained in connection with discovery? I

1 understand you're saying this was not discovery. He
2 was a former party, it wasn't formally in connection
3 with the deposition. But my question is, doesn't the
4 protective order deal with documents that are
5 obtained during the discovery process?

6 ATTY. WOLMAN: By that logic, your Honor -

7 THE COURT: I'm just asking. It's a yes or no.
8 I'm not asking - it's yes or no. You proposed the
9 protective order, you filed one.

10 ATTY. WOLMAN: It is not in the discovery
11 process. Is says in discovery. That is the issue
12 here. We can look at the language of the protective
13 order, but if Connecticut Public Radio, which is
14 listening in today, if they provided us documents
15 right now, that would not be in discovery. If
16 President Biden provided us with documents right now,
17 that would not be in discovery. Merely because there
18 is a lawsuit, does not mean that anytime a third
19 party to that lawsuit provides a litigant with a
20 document, that it is in discovery.

21 Mr. Halbig was not the subject of a subpoena.
22 He did not respond to a subpoena in providing us with
23 those documents, therefore they were not provided in
24 discovery. And your Honor even made clear in her
25 last sanctions order, that to provide something in
26 discovery means it has to be served on all parties.
27 It wasn't served on the plaintiff's. It wasn't

1 served on - actually it wasn't served - it was served
2 on Mr. Cerame, I should note. But - and it was
3 emailed to him. It was not a discovery request.
4 This is not in discovery any more so than if
5 President Biden right now gave us some information or
6 if Governor Lamont gave us some information.

7 THE COURT: When did you file your motion for
8 commission to take Mr. Halbig's deposition?

9 ATTY. WOLMAN: I do not know that offhand, your
10 Honor.

11 THE COURT: Take your time.

12 ATTY. WOLMAN: That was filed July 7th, your
13 Honor. No - wait, that's the plaintiffs' response.
14 Sorry. Looking for it. Might have been June 28th.
15 Yes, it was June 28th, your Honor.

16 THE COURT: All right. Just give me one moment,
17 please. So I'm just taking a look at that, and it
18 looks like in that motion for commission - so that
19 was filed June 28th, it looks like by Attorney
20 Pattis' office. When did you obtain the materials?
21 Just out of curiosity. I thought you put it in some
22 filing.

23 ATTY. WOLMAN: It was after that date, your
24 Honor.

25 THE COURT: All right. So the motion for
26 commission that was filed with the Court on June
27 28th, and that asked for permission to take the

1 deposition about the settlement paid, and so forth.
2 So you set - not you, but the defendant's set forth
3 the reason they wanted to take the depositions and
4 that they wanted to ask Mr. Halbig about the
5 settlement, the releases, the payments, and then
6 you - they took the - Attorney Pattis' office took
7 the somewhat unusual step maybe of actually sending a
8 copy of that motion for commission to Mr. Halbig. It
9 looks like it was sent to his email address and that
10 it was to be mailed to his home address.

11 So you know, that - in my mind when you look at
12 that, that's a motion that's filed with the Court.
13 That's certified, emailed and sent to Mr. Halbig, who
14 was a defendant and so now you've got him involved in
15 the discovery process. So I understand what you're
16 saying that the subpoena had not been served, but
17 that's - and I accept your word on that. I have no
18 reason to doubt it. But I can tell by looking at the
19 motion that Mr. Halbig was served with this discovery
20 request and then you got the material subsequently.
21 So it's a little murky in my mind. It's not as clear
22 cut maybe as you're making it sound. But continue
23 because I did interrupt you. .

24 ATTY. WOLMAN: And certainly if your Honor is
25 thinking that it's murky, then murkiness should be
26 resolved on the favor of the First Amendment here,
27 not to - and not issue and order a gag order, because

1 that's what the plaintiffs are requesting. A gag
2 order in a prior restraint, which is fully
3 un-constitutional and we should not view murkiness as
4 an excuse to violate the First Amendment.

5 If it's clear that it was produced in response
6 to a subpoena, fine. It was not. No subpoena had
7 been served. Mr. Halbig was given notice of a
8 request for a commission. I think that should be
9 commendable and that actually be practiced. I think
10 we should amend the Practice Book to require that a
11 copy be - of a motion for commission to be mailed
12 upon a punitive deponent.

13 So that they can respond here rather than later
14 and deal with the subpoena as need be. And a motion
15 to quash and whatever other state that winds up to
16 being. But here he had no obligation to do
17 something. The Court - you know, a subpoena compels
18 somebody to produce documents under penalty of
19 contempt power. This Courts contempt power or
20 whatever, a local Court's contempt power. He had no
21 obligation to produce it. The Court can issue orders
22 sanctioning any litigant who does not produce a
23 discover - a document in discovery when they are
24 compelled in a request for production.

25 That is a document produced under the aegis of
26 the proper discovery process. Mr. Halbig did not
27 respond to a document request under the Practice

1 Book. There was none pending. There was no subpoena
2 pending that he chose and thought that maybe this
3 would obviate anything. I don't know. That's his
4 decision. But whatever's lurking in his mind, if he
5 chose to violate the protective order - I'm sorry,
6 the confidentiality order, that confidentiality
7 provision that was up to him as well. You know, one
8 would think that he would have been filed a
9 protective order because it's confidential. He
10 didn't. That is not somebody who is responding in
11 discovery would act. They would file a motion for
12 protective order to make sure. But he did not.

13 THE COURT: Attorney Wolman, what are we talking
14 about? I had previously designated the releases as
15 highly confidential under the protective order.

16 ATTY. WOLMAN: Your Honor designated the
17 plaintiff's production of the -

18 THE COURT: I understand that, but you're not
19 letting me finish my question.

20 ATTY. WOLMAN: Oh, I heard a pause.

21 THE COURT: That's all right. Well, I'm just
22 catching my breath. So since the Court had already
23 designated the releases as highly confidential, what
24 are we talking about? I don't want to sit here and
25 waste everybody's time. What are we talking about
26 besides releases? I mean, is this an academic
27 exercise so that we can discuss the First Amendment.

1 I'm just trying to understand this because that order
2 is in place, and let's all be clear. All that does
3 is give the documents that obtained during discovery
4 a status that then just requires anyone who wants to
5 use the documents in the file to file a motion. It
6 doesn't mean that the documents can never be filed.
7 It's just a status that one the side or the other can
8 challenge, and which may or may not end up getting
9 filed with the Court.

10 So my question is, what are you talking about
11 besides releases? In my experience, you have a
12 withdrawal and you have a release. Those are the
13 settlement documents in a case. The withdrawal is a
14 public record, it's in the file, and the releases are
15 already designated. So what is it that we're talking
16 about?

17 ATTY. WOLMAN: Your Honor, the releases as
18 provided by Mr. Halbig are not designated. That is
19 the issue. The First Amendment is never academic.
20 If your Honor says right now that these are - that
21 what Mr. Halbig previously gave is attorney -

22 THE COURT: Mr. Wolman - Mr. Wolman, I -

23 ATTY. WOLMAN: May I - .

24 THE COURT: I thought that and I can look up my
25 order. I thought that I actually ruled in your favor
26 on the production on the releases. I believe that I
27 overruled the plaintiff's objections, ruled in your

1 favor and said that the releases, I thought for the
2 four former parties, which had include Halbig had to
3 be produced, but they would be designated as highly
4 confidential. If you don't agree with that then
5 we'll pause and I'll go look up. There's a lot of
6 orders in this case, and I can go look up the order.
7 Is that not your understanding?

8 ATTY. WOLMAN: Your Honor ordered that the
9 plaintiff's produce the releases as AEO. Your Honor
10 did not order that what Mr. Halbig gave us, for all I
11 know -

12 THE COURT: No, no.

13 ATTY. WOLMAN: - not going to produce the same
14 documents -

15 THE COURT: But - Mr. Wolman -

16 ATTY. WOLMAN: - as they hear them.

17 THE COURT: Mr. Wolman, this is really not
18 complicated and this is a yes or a no. It doesn't
19 call for any argument. It's a yes or a no or I don't
20 know, your Honor. Okay. Which is a valid response
21 if that's the proper answer. Did I not previously
22 rule in your favor, require the plaintiff's to
23 produce the four - the releases as to the four former
24 parties and then designate them as highly
25 confidential, including the Halbig release? Wasn't
26 the Halbig release - weren't the plaintiff's
27 obligated to produce a copy of that to you? Didn't I

1 rule in your favor, yes or no?

2 ATTY. WOLMAN: As to the plaintiff's producing
3 it, yes.

4 THE COURT: Okay.

5 ATTY. WOLMAN: Your Honor did not discuss what
6 Mr. Halbig produced to us.

7 THE COURT: Okay. So I have already designated
8 that release as highly confidential. The Halbig
9 release. I am not going to change that ruling.
10 That's the ruling that stands. I will not change it
11 and that's the ruling and you'll do what you need to
12 do. What I'm simply trying to find out, is whether
13 there are other documents, because - and I don't know
14 what we're talking about here, in my mind settlement
15 documents are a withdrawal and release and maybe a
16 copy of a check.

17 So is there anything else that I have to concern
18 myself with here or are we just talking about a
19 release?

20 ATTY. WOLMAN: I mean, Mr. Halbig sends us lots
21 of emails. There was - you know - I don't know what
22 the plaintiff's would be concerned with. Mr. Halbig
23 sent us some communications with his own counsel, a
24 Mr. Beatty.

25 ATTY. MATTEI: Your Honor, may I just be heard?

26 THE COURT: Well, I want - I interrupted
27 Attorney Wolman, so I just want to give him an

1 opportunity to finish up since I interrupted him, and
2 then I'll give you an opportunity to respond, since
3 it's your motion.

4 ATTY. WOLMAN: I mean, arguably Mr. Halbig's
5 email made reference to the nature of the settlement
6 that was being proposed, and his aversion to wanting
7 to enter into it at all.

8 THE COURT: Okay. Anything further before I
9 give the floor back to Attorney Mattei.

10 ATTY. CERAME: Your Honor, I should like to be
11 heard before Attorney Mattei, just in response
12 briefly?

13 THE COURT: I just want to make sure Attorney
14 Wolman's done, Attorney Cerame.

15 ATTY. WOLMAN: Your Honor, treating what a third
16 party provides as AEO is not the same as what the
17 plaintiff's provide. Under your Honor's order, this
18 is now a brand new order. And even though there is a
19 process for changing that designation, even three
20 seconds of a gag order is still unconstitutional.
21 And that's what this does.

22 THE COURT: All right. Attorney Cerame.

23 ATTY. CERAME: Just briefly, your Honor. Just a
24 couple of points. There was the characterizations
25 made by Attorney Mattei that we have - that there was
26 an improper - the materials were improperly obtained.
27 As I understand it, these materials were also sent to

1 us. I believe personally that they got caught in our
2 Spam filter, and I have not seen these materials.

3 But nonetheless, ostensibly they were sent to
4 us. I take the issue with the characterization that
5 we improperly obtained them. That may have been a
6 rhetorical flourish, I'm not sure. But to whatever
7 extent there was not a need to make that in the
8 record. And I think that's - it may be relevant as
9 to analysis that we may have received it. And I just
10 wanted to make those points, your Honor. That's all
11 I have to say.

12 THE COURT: Attorney Mattei.

13 ATTY. MATTEI: Your Honor, Attorney Wolman is -
14 made the argument that because these were produced by
15 Mr. Halbig, they weren't produced in discovery. The
16 context here is important. A week after the Court
17 ruled that they were not entitled to inquire of Mr.
18 Halbig or obtain documents relating to settlement
19 from him, they then received these documents from Mr.
20 Halbig.

21 And you point out, Judge, that although we don't
22 know, that very well may have been prompted by them
23 sending Mr. Halbig the motion for commission, and any
24 other communication's they may have had, which we
25 don't know. But what's clear is that they were
26 attempting to obtain these documents from Mr. Halbig
27 in discovery, the Court precluded them from doing

1 that, and they then obtained them anyway. So the
2 idea that these were not exchanged or provided in
3 discovery, doesn't make much sense.

4 And I also want to respond to this claim that
5 Mr. Wolman is a member of the media. And that
6 precluding him from distributing documents obtained
7 in discovery, is a prior restraint. Mr. Wolman is
8 not a member of the media. He is a lawyer
9 representing a litigant before this Court, who is
10 bound by this Courts protective orders. And simply
11 because he's in possession of an identical copy of a
12 document, that this Court has already determined is
13 deserving of protection, does not mean that can - or
14 his client, can disseminate that document, simply
15 because it's a copy, to the media as they've
16 indicated in their pleadings they want to do. For
17 the purpose we claim, of attempting to taint the jury
18 pool.

19 So from our prospective, this is the Courts
20 entry or protective order and determination that
21 these documents are covered by, and under a highly
22 confidential designation, isn't a prior restraint on
23 anybody. It is an order entered essentially by
24 agreement with the defense to be bound by it. And it
25 doesn't matter whether or not they obtain the
26 document from Mr. Halbig, which we believe was
27 perhaps not pursuant to formal discovery, but

1 certainly within the discovery process, or from us.
2 It's the same document, it's deserving of protection,
3 and that should be maintained.

4 THE COURT: All right. So I am going to deny
5 the motion to seal. I'm also going to deny the
6 plaintiff's request for a Court order designated -
7 designating that all the settlement materials and
8 information be treated as highly confidential.

9 However, my prior order that the releases are
10 designated as highly confidential remains in effect.
11 So with respect to any releases that the parties
12 obtained they are designated as highly confidential
13 and that order remains in effect. All right. So now
14 I'm going to turn to the defendant's motion to
15 dismiss with respect to the Lafferty claim. That is
16 at entry number 445. I have the plaintiff's
17 objection that is at entry number 462. And I have
18 the defendant's reply that is at number 477. I am
19 also going to take up in conjunction with the motion
20 to dismiss, the plaintiff's motion to substitute,
21 which is at 459 and 460. The defendant's objection,
22 which is at 501. The plaintiff's reply, which is 513.

23 Ordinarily there is no right to oral argument on
24 a motion to substitute, but in light of the pending
25 motion to dismiss, I am going to allow argument on
26 the motion to substitute, as well as the motion to
27 dismiss. And I think it makes the most sense to

1 start with the movant on the motion to dismiss. And
2 I think the substitution and the dismissal can be
3 dealt with the same time in the argument, then I will
4 have the plaintiff's response and then the
5 defendant's will have an opportunity to reply.

6 So I just want to make Attorney Cerame, because
7 I never want to forget you. I didn't see you had any
8 filings with respect to the Lafferty motion to
9 dismiss, and I don't see that you formally joined in
10 it. Did you?

11 ATTY. CERAME: I did not. Your Honor, I don't
12 think I have anything clever or particularly nuance
13 to add beyond what Attorney Wolman's already said. I
14 have discussed the issue with him, but, truly - I -
15 there are very intelligent people writing here, and I
16 do not have anything particular to add.

17 THE COURT: All right. And then what about the
18 motion to substitute? Did you want to weigh in on
19 that motion at the appropriate time?

20 ATTY. CERAME: Nothing beyond what Attorney
21 Wolman has said. I - he's really - he's briefed the
22 issue much more thoroughly than I could have.

23 THE COURT: All right. So then I will not worry
24 about forgetting you in the argument, with the
25 understanding that you are opting out. And I will
26 start with Attorney Wolman, who will address his
27 motion to dismiss and the plaintiff's motion to

1 substitute. Whenever you're ready, sir.

2 ATTY. WOLMAN: Thank you, your Honor. With
3 respect to Erica Lafferty. We brought this issue to
4 the Courts attention back in May. At the same time
5 we did with respect to Mr. Richmond. The late Mr.
6 Richmond. And at that time the Court in viewing a
7 similar motion to dismiss and motion to substitute,
8 viewed it as - she permitted the substitution for the
9 purpose of withdrawing the claim. There is no
10 functional difference here. Ms. Lafferty has not
11 been a real party and interest since December of
12 2018. She did not inform the Court. We learned
13 about her bankruptcy by happenstance while doing a
14 pacer search, as I customarily do in discovery of
15 litigants. And at that time we also learned that
16 nominally the claims had sold back to her, committing
17 a fraud in the bankruptcy court, which has since been
18 reversed.

19 But at all times because that sale was voided,
20 the trustee, Mr. Coan has been the real party and
21 interest continuously through today from December of
22 2018. And what we have here is - and I should note.
23 There's an argument first raised in the plaintiff's
24 reply on the substitution motion. That I think
25 should come into bearing.

26 Which is, that because Ms. Lafferty claimed a
27 partial exemption in the matter, under section 522,

1 that somehow she remained a real party in interest.
2 While that is an interesting argument to make, she's
3 still then saying that Mr. Coan should be
4 substituted, which then doesn't make sense either
5 way. They can't have it both ways. That was a reply
6 in support of substituting Mr. Coan. She's been
7 saying no, she's really the real party in interest.
8 No. Mr. Coan has been. And while they look to one
9 case, one Superior Court case, I would say that the
10 Court should defer to what the U.S. Bankruptcy Court
11 for the District of Connecticut has stated.

12 In the matter of In Re: Xiao, X-I-A-O, 2016
13 Bankruptcy in Lexus 4121. Judge Tancredi noted that
14 when a timely objection, that is to a claim of
15 exemption is lodged, and we have done so, however the
16 assets claimed as exempt remain property of the
17 estate, unless and until the objection is overruled.
18 It could not be more clear that that. And he cites
19 to the Eastern District of New York. He cites to the
20 Tenth Circuit Bankruptcy Appellate Panel, which that
21 decision was affirmed. That is what the Court should
22 look to, a decision of the Bankruptcy Court as to who
23 actually remains the real party in interest.

24 You know, Ms. Lafferty may prevail in the issue
25 regarding the claimed exemption. The Court has - the
26 Bankruptcy Court has actually deferred action on that
27 case, pending the outcome of this - of that issue,

1 pending the outcome of this case. And so what we
2 have is a matter where the assets remain property of
3 the bankruptcy estate even today. They remained
4 property of the bankruptcy estate even when that bill
5 of sale had purportedly issued because that bill of
6 sale of void. The Bankruptcy Court declared that in
7 void, therefore it has zero regal effect. So since
8 that time she is not the real party in interest.

9 Now sometimes we do substitute the trustee, and
10 that is a motion pending in this court.

11 THE COURT: Can you address what discretion in
12 your opinion the Court has with respect to the motion
13 to substitute? Is it your position the Courts hands
14 are tied under the law?

15 ATTY. WOLMAN: I think that just as with the
16 executrix of the Richmond Estate. We're facing a
17 situation here where the trustee has known he is the
18 real party in interest for years. For years. And
19 has chosen not to prosecute. We should not be
20 rewarding his nonfeasance with now all of a sudden
21 letting him into the case well after significant
22 discovery has been taken. That would be prejudicial,
23 your Honor. Just as it was that your Honor felt that
24 Mr. Richmond's claim should be withdrawn because
25 the - presumably the late date at substitution has
26 being sought. This is even later for an even longer
27 period of time. There is no excuse.

1 Mr. Coan tried to make sure that we did not know
2 what was going on the Bankruptcy Administration. He
3 didn't appear in this case, despite the fact that
4 plaintiff's firm had been hired years ago and
5 retained through an order of the Bankruptcy Court to
6 prosecute the case in the name of Ms. Lafferty. That
7 was the purpose of that order. Ms. Lafferty herself
8 sought that order - and assented to it rather. The
9 trustee is the one who, I should note, moved for it
10 if I recall. But she did not object to that.

11 THE COURT: Attorney Wolman, what of the fact
12 that the case did not remain dormant during the time
13 that the trustee was not named as a party in this
14 case? What significance under the law is that?

15 ATTY. WOLMAN: Well, I mean there has been
16 certain amounts of dormancy at least in this court,
17 where months went by when we were in the Supreme
18 Court of Connecticut. There were months that went by
19 when we were in the District Court -

20 THE COURT: Well, what I meant by dormancy, I
21 don't mean when you removed it to Federal Court,
22 where obviously it would be improper for this Court
23 to do anything, nor do I mean, I believe I had
24 granted your stay. I don't know if you filed it or
25 if Attorney Pattis. So I'm not talking about that as
26 dormancy. In my mind dormancy is when there can be
27 activity on a case and nobody's prosecuting their

1 claim.

2 Given - I can't - I would be hard pressed to
3 find certainly not another case on my docket, but I'd
4 be hard pressed to find another case that's
5 prosecuted and defended as vigorously as this case.
6 So I don't see besides when we were not permitted
7 under the law to have any activity in the case, I
8 don't see that this case was ever dormant for
9 probably a day. And I'm just wondering how
10 significant is that under the law.

11 ATTY. WOLMAN: Well, I think that we should also
12 look at the fact that discovery was served in May.
13 Months before substitution was sought. Ms. Lafferty,
14 her deposition was taken. And the - you know, some
15 of the issues in terms of how things were
16 characterized, even with respect to the motion for
17 commission regarding Mrs. Clinton, you know,
18 related - is related to that.

19 We have severe prejudice. We did not get to
20 issue interrogatories. We have not been able to
21 dispose Mr. Coan as a party. In fact he had objected
22 to his - to a subpoena to him. He did not wish to be
23 deposed in this matter. Or I apologize, maybe it's
24 the plaintiffs were seeking to preclude his
25 deposition. I forget who filed that one. Who
26 objected to that subpoena, moved to quash it. I
27 believe that the trustee joined in it, or filed his

1 own motion. But -

2 THE COURT: Attorney Wolman, let me just ask
3 you. I know that you're in the middle of
4 depositions, because I'm getting phone calls during
5 the deposition in this case. Where's the prejudice
6 if you weren't able to take the depositions that you
7 say that you weren't able to take? I could see you
8 would be prejudiced if trial started tomorrow and you
9 couldn't do the depositions that you wanted. But
10 clearly you're right in the midst of depositions. So
11 what is the prejudice that attached here, so that I
12 understand it a little better?

13 ATTY. WOLMAN: Well, I mean, part of the problem
14 is we still haven't even gotten any production from
15 Mr. Coan. Where the plaintiff's asked for time, Mr.
16 Coan has not asked for time, despite the Court
17 essentially ruling on that motion. We've gotten no
18 production from him. We haven't been propertied a
19 new date, we did not get to serve interrogatories on
20 him. That time has elapsed, and we've been litigating
21 against the wrong party for years.

22 THE COURT: Anything further, sir?

23 ATTY..WOLMAN: No, your Honor.

24 THE COURT: Thank you. Attorney Mattei, are you
25 arguing this?

26 ATTY. MATTEI: Yes, your Honor. Thank you.

27 Taking up the both the motion to substitute and I

1 think the motion for lack of subject matter
2 jurisdiction at that same time. You started out with
3 the question, Judge, about whether your hands are
4 tied. Our view, and I think the view you have
5 embraces in a couple of prior cases you've handled
6 involving similar cases, is that you do have the
7 authority to resolve a motion to substitute, prior to
8 resolving a motion to dismiss for lack of subject
9 matter jurisdiction.

10 I believe that you did that in both the
11 Dragonetti case, 2010 Westlaw 4227122, and the
12 Messiah case, which we think is similar to this one.
13 2012 Westlaw 6634817. And I urge the Court to do
14 that here for a couple of reasons. Number one, it's
15 our view and I think the law supports this that Ms.
16 Lafferty has been and continues to be a proper party
17 in interest, having retained a legal and pecuniary
18 interest in this matter before the Bankruptcy Court,
19 for the duration of the case.

20 She's retained the maximum exemption that she
21 can under the Bankruptcy Code in an interest in the
22 case, and that confers upon her, both standing and
23 this Court's subject matter jurisdiction to prosecute
24 the claim in her own name.

25 With respect to Attorney Wolman's argument that
26 they've objected to that exemption, the objections
27 period for when Ms. Lafferty claimed that exemption

1 lapsed in February of 2019, I believe. And it wasn't
2 until the Jones defendant's intervened in Ms.
3 Lafferty's bankruptcy and claiming that she owes them
4 money that they attempted to object to that exemption
5 in August of this year. And I should note, that they
6 have not objected to Ms. Lafferty's claimed exemption
7 of her interest in this lawsuit. What they've
8 objected to, is her claim in the Bankruptcy Court
9 that she does not yet know what the value of the
10 remaining case is.

11 And as that exemption has existed, essentially
12 throughout the entirety of this case, that property,
13 her interest, had remained within the debtor's
14 possession. That is Ms. Lafferty's possession. And
15 we think that the cases that are most persuasive on
16 this issue are the Fetner case, which I will cite to
17 you as soon as I can pull it up. 218 bankruptcy, 262
18 In Re: Fetner. And also the *Post versus Latera* case,
19 which we cited to this Court. Where a debtor retains
20 a real legal and pecuniary interest in the litigation
21 that she is bringing, and has advised the Bankruptcy
22 Court of that. That confers upon her standing in
23 this court jurisdiction, and she has had it
24 throughout.

25 It's simply not part of the bankruptcy estate,
26 and for that principle, I would refer the Court to In
27 Re: Sheets, 69 Bankruptcy, 542. And In Re: Bedouin,

1 which is a Connecticut Bankruptcy case, 427 BR30.
2 Explaining that exempt property is not part of the
3 bankruptcy estate. And so she has maintained that
4 interest throughout, and as your Honor points out,
5 she has prosecuted the case diligently.

6 I do want to address Attorney Wolman's
7 disparagement of Mr. Coan. Mr. Coan has been a, I
8 believe a 35 year veteran of the Bankruptcy Court.
9 And he, as a result of the Bankruptcy Code has
10 discretion as to whether or not to substitute on
11 behalf of the Bankruptcy Estate. It's very clear
12 that he has discretion to do that. Having been made
13 aware of the pendency of the matter. Having been
14 aware of Ms. Lafferty's exemption. Mr. Coan was
15 fully within his rights as the trustee, to continue
16 to let her proceed with it, to pursue it and to
17 prosecute it on his behalf, which he did. And that
18 discretion is undeniably plain with the Bankruptcy
19 Regulations.

20 I also want to - sorry, Judge.

21 THE COURT: Take your time.

22 ATTY. MATTEI: I also want to say that the only
23 remaining question then, is whether or not Mr. Coan
24 may be substituted at this time. Mr. Wolman
25 criticizes him for now making an effort to
26 substitute. It's not necessary that he do so, but
27 he's doing that at this time, in part because the

1 Jones defendants have raised this issue. Not because
2 he's under any mandate to do that. He could continue
3 in his discretion to let Ms. Lafferty continue to
4 prosecute the case on his behalf. But he's opted to
5 seek substitution. Ms. Lafferty has opted for him to
6 seek substitution. And there's no prejudice to the
7 defendant. As you pointed out, your Honor, as a
8 result of this they still can take his deposition if
9 they wish. They still can seek discovery from Mr.
10 Coan, if they wish, but it's not really disputed that
11 the individual who has relevant information to Ms.
12 Lafferty's claim, is Ms. Lafferty herself. She's
13 been deposed. She's prepared records for production.
14 She has submitted interrogatory responses. And the
15 damages that are being claimed in this lawsuit, are
16 those that she personally experienced.

17 If the Court were to deny its subject matter
18 jurisdiction, deny Mr. Coan's ability to intervene in
19 this case, the injury would be to the Bankruptcy
20 Estate. And the entire purpose of the Bankruptcy
21 Code is to ensure that the assets of a Bankruptcy
22 Estate are maximized. The code is a shield for the
23 debtors' estate to maximize its value. It's not a
24 sword to be used by parties in litigation against the
25 estate.

26 He's been aware of the claim since the
27 beginning. He's exercised his discretion not to

1 substitute. And the clear distinction both between
2 the events surrounding Mr. Richmond's estate, are
3 that Ms. Lafferty has retained an interest
4 throughout. Obviously with Mr. Richmond's passing,
5 he did not retain an interest, was not capable of
6 prosecuting the matter and there was no
7 representative who had discretion to allow him to do
8 that. That's clearly not the case here. The
9 Bankruptcy Code's purpose is to ensure that there is
10 no end run of the bankruptcy process. And that the
11 estate's assets are being maximized. Here, Ms.
12 Lafferty disclosed to the Bankruptcy Court, her
13 interest in this litigation. She maintained an
14 exemption. The case was filed before she ever filed
15 for bankruptcy. And there's no dispute that she was
16 the proper party in interest as of that time.

17 And so we think that the Court should follow the
18 same rational that it used in Messiah. Conclude that
19 a substitution is appropriate, and allow the case to
20 continue. Indeed, both the Delito case and other
21 cases expanding upon this have held that the rules of
22 standing are not to be applied or construed narrowly,
23 so as to cut off a claim, but rather liberally,
24 particularly in the absence of any prejudice to allow
25 a claim to proceed. So for those reasons we think
26 the motion to substitute should be granted, and we
27 think the motion to dismiss should be denied.

1 And I just want to mention one other thing. In
2 the In Re: Xiao case, which Jay recently cited a
3 decision by Judge Tancredi, it was the trustee of the
4 bankruptcy estate that objected to the exemption that
5 the debtor was claiming. Here, neither the trustee
6 nor any legitimate creditor has objected to that
7 exemption. And so we're in a very different posture
8 than they were in the Xiao case. And we're much more
9 closer to Fetner and to the Latera case. Thank you
10 Judge.

11 ATTY. WOLMAN: May I respond, your Honor.

12 THE COURT: Certainly.

13 ATTY. WOLMAN: First, that last point, our
14 clients are legitimate creditors. Ms. Lafferty
15 herself filed amended complaint - amended schedules
16 identifying our clients as creditors. That is why we
17 were then given an opportunity to object to the
18 claimed exemption. For the first time Ms. Lafferty
19 did not give our clients notice, and she cannot
20 capitalize on her own malfeasants in order to then
21 use that as some kind of issue of us sitting on our
22 rights.

23 No. The only party to sit on his rights is the
24 trustee. Yes. The trustee has discretion to
25 substitute. But simply his - even if he exercises
26 his discretion and doesn't substitute, that does not
27 confer standing on the debtor. That simply means

1 that nobody is prosecuting the case if he does not
2 substitute in. It does not mean that the debtor has
3 the right to do so. And it doesn't matter who filed
4 an objection - with respect to the Xiao case I cited,
5 Judge Tancredi stated the principle clearly. And we
6 did file an objection. We filed an objection timely
7 to the claimed exemption. And that has not been
8 adjudicated. And so therefore the owned proper party
9 this entire time has been the trustee and he has sat
10 on his rights and should not now be rewarded for
11 that.

12 And I should note, that Mr. Mattei
13 misrepresented the record. There is no, so far as
14 I'm aware, notice of compliance with respect to Ms.
15 Lafferty. She has not produced documents it this
16 matter. She is presumably part of this rolling
17 production, but we haven't gotten anything from her.
18 And we haven't gotten anything from Mr. Coan, who is
19 not subject to the rolling production so far as we
20 are aware.

21 So as a result, I see no reason why he should
22 now having not produced documents, having not had the
23 opportunity to serve interrogatories on him, that he
24 should now at this late date be permitted to
25 substitute in. Thank you.

26 ATTY. MATTEI: Your Honor, in response. First
27 of all -

1 THE COURT: I generally don't go back and forth,
2 Attorney Mattei, as you know. But since there was an
3 issue raised with regard to whether there had been
4 compliance, I think you should address that.

5 ATTY. MATTEI: Yes. Thank you, your Honor.
6 What I said was, that Ms. Lafferty has prepared
7 documents for production, which is accurate. As the
8 defendant's know, because they deposed her, and
9 deposed her on the preparation she had made to
10 produce documents. And I also said that she is
11 served interrogatories, which is true. So I - let me
12 just leave it there.

13 I also want to say that Ms. Lafferty has not
14 conceded that Mr. Jones is a creditor of hers. She
15 has listed in light of what the Jones defendants have
16 done to muck up her bankruptcy. Him as a contingent
17 creditor, they filed objections as I understand it,
18 to his claim. And Judge Manning has indicated that
19 she will not be addressing that until this matter is
20 resolved. That's all, Judge.

21 THE COURT: All right. So I am going to deny
22 the motion to dismiss, having granted the motion to
23 substitute, and I will issue something in writing.
24 And I just want to say, that I would consider any
25 appropriate motion to modify from the defendant's or
26 really from any of the parties, if additional time is
27 needed to conduct discovery specific to that

1 plaintiff, because certainly there should be no
2 prejudice if sufficient time for the discovery is
3 permitted.

4 So what I'm going to do now in an effort to
5 accommodate Attorney Horton, because I am not going
6 to get through that hearing today, and the other
7 important matters on our agenda. What I'm going to
8 do Attorney Horton, is sort of give a background, if
9 you would, so that you're on notice and Attorney
10 Wolman is on notice of the Courts concerns. So I
11 will put some background statement on the record so
12 that you know what you're defending against at the
13 next hearing.

14 I haven't yet decided whether I'm going to
15 possibly, if I find it appropriate, to do a referral
16 to Disciplinary Counsel, or if I'm going to exercise
17 my jurisdiction and discretion and deal with the
18 issue myself at a hearing. I might be leaning
19 towards dealing with the issue myself, with obviously
20 I'm very pleased to see that you're appearing for
21 Attorney Wolman. That's a good thing. So - and I
22 certainly want to give you enough time as well, so
23 that you know what the Court's concerns are.

24 ATTY. HORTON: Yes.

25 THE COURT: All right. So - and I don't think
26 once we're done with it, there's not going to be any
27 colloquy, any further discussion, unless you had a

1 specific question. Which I don't think you will.
2 And I'll plan on addressing this issue at our next
3 scheduled status conference. Okay. So on May 6,
4 2021, the Court having already referred prior defense
5 counsel to the Disciplinary Authorities, and
6 concerned about obstructive and dilatory practices,
7 as well as candor towards the tribunal on the part of
8 the defense, instructed all counsel in the case to
9 review the relevant sections of The Rules of
10 Professional Conduct.

11 On May 29, 2021, the Court warned Attorney
12 Wolman to refrain from invoking The Rules of
13 Professional Conduct in civil filings in this
14 lawsuit, as it is entirely inappropriate to use the
15 rules as a weapon in a civil lawsuit. The Court
16 warned Attorney Wolman that any further such usage of
17 the rules would result in immediate action by the
18 Court, under Practice Book Section 2-45.

19 Then on June 26, 2021, Attorney Wolman was
20 warned to refrain from inappropriate commentary and
21 ad hominem criticism of the Court in court filings in
22 this case. These are all very unusual steps for the
23 Court to take. This brings us to the September 17,
24 2021 deposition of unrepresented witness Robert
25 Jacobson. The deposition transcript, which has been
26 lodged with the Court at the Courts request, will be
27 marked as a Court Exhibit now, Mr. Ferraro,

1 temporarily under seal. As I see that it contains
2 personal identifying information, and it may contain
3 other information. And Attorney Ferraro, we will put
4 that issue on the agenda as well for our next status
5 conference. That motion - the Courts sua sponte
6 motion to seal parts of the transcript.

7 I'm also going to instruct Mr. Ferraro to mark
8 the subpoena that was served on Mr. Jacobson as a
9 Court Exhibit. That was filed by plaintiff's
10 counsel, also as a result of the Courts order. And
11 we'll mark that as a Court Exhibit as well. The
12 Court's reviewed the entire deposition transcript of
13 Mr. Jacobson. And had the Court had that information
14 during the September 17 telephone conference that was
15 done on the record, and had the Court had any inkling
16 of the abusive questioning that was being conducted
17 by Attorney Wolman, I would have immediately,
18 immediately stopped the deposition. And if I was
19 going to permit any further questioning of that
20 witness, it would have been done in open court with
21 the Court on the bench and present for any further
22 questioning. But I did not, obviously have the
23 transcript in front of me as the deposition was
24 ongoing.

25 In response to Attorney Wolman's questioning of
26 Mr. Jacobson, Mr. Jacobson's response would indicate
27 that he had no documents that were responsive to the

1 plaintiff's subpoena on either his phone or on the
2 Cloud, except for the subpoena itself. And after the
3 plaintiff objected to the request, Attorney Wolman
4 asked Mr. Jacobson to search the email on his phone
5 for the phrase Sandy Hook. In response, Mr. Jacobson
6 asked Attorney Wolman, quote, am I legally required
7 to do so, end quote.

8 And rather than refrain from giving legal
9 advice, Attorney Wolman's response was, quote, you're
10 here and you're subpoenaed here, and you brought your
11 documents, your entire email account to the
12 deposition, end quote. Following another objection
13 by plaintiffs' counsel, Attorney Wolman asked Mr.
14 Jacobson, quote, are you refusing my request, end
15 quote. Referring to his request that the
16 unrepresented witness search his phone. At which
17 time Mr. Jacobson stated that he would like to
18 consult with a lawyer.

19 Attorney Wolman then asked the witness how much
20 time do you need today to consult with a lawyer. At
21 this point on the record with the witness there,
22 plaintiff's counsel with Attorney Wolman's okay,
23 emailed the Court Officer, Mr. Ferraro, to get the
24 Court involved to get a ruling on the issue of
25 whether the unrepresented witness needed to search
26 his phone for the documents.

27 Nonetheless, Attorney Wolman, after stating

1 that the witness had not called counsel immediately,
2 and knowing that the Court had been contacted to
3 intervene in the issue, pressured and barraged the
4 witness by asking, would you like to call a lawyer
5 right now? Mr. Jacobson, are you going to call a
6 lawyer right now?

7 Attorney Wolman then stated that the witness had
8 a full and fair opportunity to seek counsel. And
9 after the witness stated again that he would await
10 the Courts ruling on the issue, Attorney Wolman again
11 asked the witness, are you refusing to produce
12 documents pursuant to the search I have requested?

13 The transcript that's been marked as a Court
14 Exhibit, shows that Attorney Wolman continued to
15 pressure and harass the witness, who stated over and
16 over again that he was waiting for the Courts ruling.
17 Attorney Wolman asked the witness several times what
18 the witness was doing himself to seek Court
19 intervention. While Attorney Wolman already knew
20 that Court intervention had been requested by the
21 lawyers, who had access to the Court.

22 This behavior concerns the Court, and that is
23 part of what Attorney Wolman is answering to. So
24 this witness, like most witnesses, did not have a
25 lawyer on standby. He testified in response to
26 Attorney Wolman's questioning, that he didn't bring a
27 lawyer to the deposition because he could not afford

1 one. Nor did this unrepresented witness have any
2 method of seeking Court intervention on his own in
3 the middle of the deposition. The Court is also
4 concerned with Attorney Wolman's legally erroneous
5 and response to the witness's question, as to whether
6 the witness was legally required to search his phone.

7 There was no Court order that the Court had
8 issued, nor does the subpoena that's also been marked
9 as a Court Exhibit, require him to search his phone
10 in the middle of the deposition. And that is simply
11 not normal deposition procedure. It is actually
12 highly irregular.

13 In the middle of the deposition, the Court did
14 address on the record during the telephone
15 conference, the issue at hand. And I direct the
16 clerk to make a copy of that transcript as a Court
17 Exhibit as well. It's already contained in the file.
18 Attorney Wolman in his comments to the Court during
19 that hearing, justified his continuing to ask the
20 witness to search his phone, because the witness did
21 not himself somehow seek judicial intervention, in
22 addition to the judicial intervention that
23 plaintiffs' counsel had already set in motion, which
24 led to the hearing, and because the witness did not
25 somehow find a lawyer in the middle of the
26 deposition.

27 The Courts directive on the record at that

1 status conference, which took place in the middle of
2 the deposition, was that Attorney Wolman should file
3 a motion on the issue if he felt it was necessary.
4 And that it was not appropriate and not normal
5 deposition procedure to have a witness search a phone
6 for documents in the middle of the deposition. That
7 is what the Courts directive was. File a motion, if
8 you think it's necessary. This is highly
9 inappropriate and it is not normal. It is that
10 simple.

11 At that point the Court had not seen the
12 subpoena, which now that the Court has seen it, does
13 not show that the witness was required to produce his
14 phone at the deposition, nor had the Court seen the
15 earlier part of that deposition transcript with the
16 questioning that concerns the Court.

17 It's painfully clear to the Court now, having
18 reviewed the deposition transcript and subpoena that
19 the witness objected to searching his phone. That he
20 wanted time to talk to a lawyer. That he wanted the
21 Courts ruling. And it is also painfully clear that
22 under the law, the witness was under no legal
23 obligation to search his phone.

24 When Attorney Wolman went back on the record at
25 the deposition, he immediately asked the witness if
26 he was willing to search the phone. At no point did
27 Attorney Wolman make clear to the witness the Courts

1 directive, that it was inappropriate and not normal
2 to have a witness in the middle of a deposition
3 fumble through a phone and search for records.

4 The Court is concerned of possible Rules of
5 Professional Conduct violations of 3.43 and 3.44. By
6 disregarding the Court's directive and by misleading
7 the witness to believe that he had a legal obligation
8 to search his phone, email's or the Cloud, when no
9 such legal obligation existed. 3.5(4), by engaging
10 in conduct intended to disrupt a deposition by
11 harassing, barraging, or pressuring the witness.
12 4.1(1), by making a false statement of material fact
13 to the witness with regard to whether the witness had
14 a legal obligation to search his phone. And with
15 respect to his failure to info the witness of the
16 entirety of the Courts order. 4.3, by giving legal
17 advice to an unrepresented person, by virtue of his
18 response to the witnesses question of whether the
19 witness was legally required to search his phone.
20 And 8.4(3), by engaging in conduct involving
21 dishonesty, fraud, deceit or misrepresentation by
22 virtue of his response to the witness's question of
23 whether the witness was legally required to search
24 his phone.

25 So those are the Courts' concerns about possible
26 rules of professional conduct violations. We will
27 take that up at the next hearing, now that everyone

1 is on notice of what the Courts specific concerns
2 were, and what specific rules of professional
3 conduct, the Court is concerned might have been
4 violated. All right.

5 So Attorney Horton, you are more than welcome to
6 stay for the rest of this hearing. I see that its
7 11:16, so we got you out just in the nick of time.
8 Okay, sir. So we will see you at the next hearing
9 date.

10 ATTY. HORTON: Thank you, your Honor.

11 THE COURT: You're welcome.

12 All right. So I now want to address the
13 discovery issues. And I'm going to try to do it in a
14 way that makes sense to me, by sort of breaking it
15 down into different sub-categories. So let's start
16 with the issue in the motion for the Hillary Clinton
17 deposition. So the Court in its August 5, 2021
18 order, found that the defendant's Free Speech
19 Systems, LLC, Infowars, LLC, Infowars Health, LLC and
20 Prison Planet, LLC, willfully disregarded the Court
21 ordered procedure when filing their motion to depose
22 Hillary Clinton.

23 The Court further found that the defendant's
24 never took any corrective steps with respect to the
25 improper filing. And the Court expressed its grave
26 concerns that their actions in the future will have a
27 chilling effect on the testimony of witnesses who

1 would be rightfully concerned that their confidential
2 information, including their psychiatric and medical
3 histories, would be made available to the public.

4 The Court indicated that it would address
5 sanctions at a future hearing, and this is that
6 hearing. So I don't have a particular order. I'm
7 thinking that I will start with the defendant's, then
8 hear from the plaintiff's and then return to the
9 defendants, so that the defendants have an
10 opportunity to respond.

11 ATTY. WOLMAN: Thank you, your Honor.

12 We do take the confidentiality order very
13 seriously and have endeavored to abide it. There was
14 during a deposition this motion filed. And at the
15 end of the day it comes down to simply one sentence.
16 That the witness claims not to know how her legal
17 fees were being paid. That's the only information
18 that I can see in that motion that gives rise to the
19 Courts order. And you know, it was erroneously
20 believed that that was not subject to the
21 confidentiality order. The witness herself was not
22 identified.

23 .And while it may be a technical violation, and
24 it was not realized to be so at the time -

25 THE COURT: So do you admit now that it was a
26 violation, whether it's a technical violation or not?

27 ATTY. WOLMAN: I would say it probably fits

1 within the language of what is protected. We had
2 concerns as to whether or not it truly was protected.
3 The Court has weighed in.

4 THE COURT: So let me ask you Attorney Wolman.
5 Do you have any disagreement that the transcript from
6 which that information was taken and filed on the
7 motion in the middle of the deposition apparently,
8 that that transcript had been marked. Whether you
9 agree with the designation or not, that it had been
10 marked as a protected document.

11 ATTY. WOLMAN: Yes, it had, your Honor. And I
12 would also ask that the Court to - I mean, make sure,
13 you know, that we're disambiguating which defendants
14 are at issue. Not all defendant -

15 THE COURT: Well I think when I just read my
16 statement, I listed the defendants that were involved
17 in the filing of that motion. So it's not necessary
18 to do that again.

19 ATTY. WOLMAN: Okay.

20 THE COURT: So tell me, because subsequent
21 argument with respect to this issue, the argument was
22 that essentially the protective order, there was no
23 basis for granting the protective order, and the
24 designation was not proper, and so be it.

25 I haven't - where do I see a filing anywhere that
26 corrects what happened or that says this was a
27 mistake? Or a technical violation? Or whatever your

1 position is?

2 I'm not saying I agree with it or not. But,
3 what I saw instead, the subsequent filings on this
4 issue was, Court had no basis for granting that
5 protective order, which by the way, you all filed.
6 The defendant's filed. And it was a bad designation.
7 Why was that posture taken?

8 ATTY. WOLMAN: Certainly I think we're entitled
9 to resist any accusation of a violation of a
10 protective order, as any litigant would be. And
11 that's how we did - we were looking to preserve the
12 issue -

13 THE COURT: The Court's concern - the Court's
14 concern, Attorney Wolman, is that there were several
15 iterations of that protective order before the
16 Court granted the protective order in the early days
17 of this case. And I believe you actually were the
18 one that filed it. I understand there were
19 discussions with the plaintiff's. I understand all
20 that. But that was the protective order that you all
21 asked the Court to approve. And that - once the
22 Court enters the order, it's a Court order, correct?

23 ATTY. WOLMAN: Yes it is, your Honor.

24 THE COURT: I then get argument from your side,
25 from the defendant's, essentially saying that there
26 shouldn't have been a protective order. There was no
27 good faith basis for it. So I'm at a loss here. Is

1 the protective order now something that the
2 defendant's, if they disagree with the designation,
3 don't have to comply with?

4 ATTY. WOLMAN: No, your Honor. I think the
5 argument is a little more on the designation itself,
6 not being in good faith, and certainly that we didn't
7 appreciate that this kind of statement that doesn't
8 identify any particular witness, would be subsumed
9 within that protective order.

10 THE COURT: Say that again?

11 ATTY. WOLMAN: We didn't identify who it was who
12 was being deposed. We gave no explanation -

13 THE COURT: So, is it your -

14 ATTY. WOLMAN: - first deposition -

15 THE COURT: - so was the information contained
16 in that motion not information contained from the
17 deposition?

18 ATTY. WOLMAN: It was, but that the nature of
19 the disclosure itself was not viewed as a violation
20 of that order. That was - we did not -

21 THE COURT: So because you didn't list the name,
22 you could take what - so if someone designates a
23 transcript as confidential, or whatever the
24 designation is, anybody in the case can file whatever
25 they want as long as they don't give the name of the
26 deponent?

27 ATTY. WOLMAN: That as a general - as long as

1 you're not saying who it is, what it is, you know, I
2 think that is - makes it readily identifiable.

3 THE COURT: So -

4 ATTY. WOLMAN: Who it is -

5 THE COURT: So you're - so then - Attorney
6 Wolman, say psychiatric records are produced. You
7 can just white-out the name of the plaintiff or the
8 patient, and you can - you can put that out there
9 because it doesn't identify the person?

10 ATTY. WOLMAN: No, your Honor. But I think we
11 can say that three plaintiff's claim anxiety, seven
12 plaintiff's claim PTSD. Whatever the numbers may
13 wind up being. Six plaintiffs have gone to - or some
14 plaintiffs have gone to this particular out of state
15 doctor, and therefore we need a commission to take
16 his or her deposition.

17 We're not identifying who the plaintiffs are,
18 but you have to set forth a reason, and we're not
19 saying anybody's particular information. Nobody can
20 say which of the multitude of plaintiffs it is. It's
21 presenting generalized information. And that was not
22 understood as to what we had agreed on. And that the
23 designation - it was not realized that this would -
24 that type of thing would be viewed as a violation of
25 the protective order. If your Honor is saying that
26 it is, we will certainly abide that order from here
27 on out.

1 THE COURT: Well I'm concerned - it doesn't seem
2 complicated to me, it actually seems extremely basic.
3 But I'm very concerned. So as I understand it, the
4 parties are in the middle of a deposition.
5 Deposition testimony is elicited. In the middle of
6 the deposition, information from that deposition is
7 used, and in the middle of the deposition a motion is
8 filed with information from that deposition.

9 It's pretty rare in my mind to see. I mean, I'm
10 not sure I've ever seen someone in the middle of a
11 deposition use information from that deposition,
12 while it's still ongoing, and immediately file a
13 motion. So that was a little unusual. But I'm just
14 struggling. I'm not sure that the defendant's
15 understand their obligations under the Court order,
16 that if a deposition transcript is designated by one,
17 two, three; or all the parties, that the information
18 from that deposition cannot be used in the manner
19 that it was used. And I'm hearing things that
20 concern me.

21 So now your position is we can use, despite the
22 Courts order, we can use information contained - that
23 was elicited in the deposition, as long as we don't
24 identify. So for example, for example, for example
25 and tell me if I'm wrong. So if the plaintiff's - if
26 you designated a deposition of one of the defendant's
27 as confidential until you all figured out what

1 portions would be confidential or not, for the
2 purposes of discovery. And the plaintiff's elicited
3 deposition testimony that one of the defendant's,
4 doesn't matter which one, let's say Prison Planet
5 T.V., LLC. It really doesn't matter. But they gross
6 85 billion dollars a year in advertising revenue.
7 The - or is it your position then that the
8 plaintiff's would then be able to put that in a
9 motion, even though you've designated the transcript
10 as confidential? That one of the defendant's grosses
11 85 billion dollars a year in advertising revenue, as
12 long as they don't say that it was Prison Plant T.V.,
13 LLC because it doesn't identify them? It could be
14 any of the defendant's?

15 ATTY. WOLMAN: Well, certainly it would be a
16 fact by case by case scenario, because we've
17 certainly represented that none of the defendant's,
18 except for Free Speech Systems, is the revenue
19 generating entity, because that produces Infowars.
20 So certainly if that were to come in, unless of
21 course somehow it's thought up as being Genesis
22 Communications. This - with respect to the issue
23 here, it did not directly identify any identifiable
24 witness, whereas that kind of example might.

25 We appreciate your Honor's elaboration of how
26 the order is to be interpreted moving forward. And
27 we'll abide that. And we will go forward with that

1 understanding that this is how things are to be
2 treated. It was not understood that way at the time
3 the commission motion was filed. And because now
4 that your Honor has clarified, this is how we're
5 going to do it going forward, we are certainly -

6 THE COURT: All right. So Attorney Wolman,
7 let's just step back for a bit, if you would? Let's
8 pull up the protective order that was in effect at
9 the time. The protective order that you filed. And
10 point me to the paragraph's that I need to look at,
11 that you now say that it wasn't clear to you that you
12 could apparently use portions of a deposition
13 transcript where the deposition had been marked
14 confidential by a party. So tell me, the protective
15 order was filed when?

16 ATTY. WOLMAN: Sorry, what's the entry number,
17 your Honor?

18 THE COURT: I don't know. You filed -

19 ATTY. MATTEI: 185.

20 THE COURT: What is it?

21 ATTY. MATTEI: 185.

22 THE COURT: All right. So I'm going to go to
23 the number 185. That is the proposed order that you
24 actually filed on February 22, 2019, that I granted
25 on that same day. This was your document, not mine.
26 And tell me the provision that you're suggesting now,
27 you needed further clarification from the Court.

1 And just before we get to that. Attorney
2 Wolman, just so that we're all on the same page.
3 When - let's say you marked during discovery, let's
4 say that you marked a document as confidential. And
5 let's say that Attorney Mattei for the plaintiff
6 disagreed with your designation. What is the
7 procedure that he would follow to challenge the
8 designation?

9 ATTY. WOLMAN: That would be following the
10 deposition and opportunity to meet and confer.

11 THE COURT: And then if you met and conferred,
12 and he - and you stood by your designation that
13 that's confidential, but he wanted to use that
14 information in a court filing. What is he to do
15 then?

16 ATTY. WOLMAN: He's supposed to file it under
17 seal, or at least seek a sealing. I don't believe
18 the plaintiff's had done that consistently throughout
19 this case, however.

20 THE COURT: Just - just let's stick to what the
21 question is. What's the procedure? Go ahead.

22 ATTY. WOLMAN: That one would file that
23 redacted. File an un-redacted under seal
24 conditionally.

25 THE COURT: And then the Court makes the
26 determination of whether - of what should happen,
27 correct?

1 ATTY. WOLMAN: Yes.

2 THE COURT: Right. We did that, did we not, on
3 record in the - with respect to your clients? I
4 think we spent a good solid hour on the record. I
5 sealed some items. You withdrew some items. And I
6 didn't seal some items. So that was sort of like a
7 challenge, correct, to the designation.

8 ATTY. WOLMAN: That - well, no, that wasn't a
9 challenge to the designation. That was as to the
10 issue of sealing. But we did not do that, for
11 example, with respect to a reply memorandum that was
12 filed un-redacted.

13 THE COURT: I just want to make sure that
14 there's no concern. That you have a mechanism and
15 that you understand the mechanism that if - that if a
16 document is designated as confidential or highly
17 confidential, that the procedure that is in place is
18 followed. I just want to make sure that everyone is
19 on the same page with that so we don't have any
20 problems.

21 So you have a meet and confer. Then if the
22 document is a document that needs to be filed in a
23 court filing, it's filed under seal. It's lodged,
24 and then the Court addresses it. And it either
25 remains - it either can get filed under seal or it's
26 not filed under seal.

27 ATTY. WOLMAN: Right. It's hard to point to a

1 specific portion, and certainly I can't - I was not
2 the filing attorney of that motion. I was busy
3 taking the deposition, your Honor. But, you know,
4 just in the aggregate, it's unclear that it applied
5 to representations regarding an unnamed witness.

6 THE COURT: Let's direct ourselves back - I'm
7 still on the protective order. I pulled it up and
8 I'm just waiting for you, because I don't want any
9 more problems in the future. So direct me, since I
10 have your document up, direct me to the relevant
11 provision on documents that are designated as
12 confidential. So when a deposition transcript is
13 designated as confidential or highly confidential,
14 what are you permitted or not permitted to do with
15 that transcript?

16 ATTY. WOLMAN: Well, paragraph 14-A and 14-B
17 talks about designation of the transcript as
18 confidential information. It doesn't say what
19 constitutes the confidential information. It just -

20 THE COURT: Well, no. Attorney Wolman, listen
21 to me. You're - I want - I'm not asking what
22 constitutes confidential information. This is really
23 not complicated and you're making it more
24 complicated. A party designates a document, rightly
25 or wrongly, they exercise their right under this
26 protective order to designate a document.

27 We're not addressing as whether anyone agrees or

1 disagrees with the designation. But once the
2 designation is made to a deposition transcript,
3 whether you agree with it or not, how is that
4 deposition transcript treated? And that's what I
5 want you to show me in this protective order.

6 ATTY. WOLMAN: Well the transcript is treated
7 for that time period until the designation is
8 challenged as confidential information, your Honor.

9 THE COURT: And what paragraph am I looking at,
10 if you can?

11 ATTY. WOLMAN: Fourteen A and B, your Honor.

12 THE COURT: Just give me one moment, please.
13 And then 15 maybe, no one may attend or review the
14 transcripts of the portions of any depositions, at
15 which confidential information is shown or discussed,
16 other than persons authorized to receive access to
17 confidential information?

18 ATTY. WOLMAN: Yes, your Honor.

19 THE COURT: All right. So it seems clear to me
20 that if, again, this is the document that you filed
21 and you asked the Court to approve. It seems clear
22 to me that re-reviewing those paragraphs, it's a
23 pretty straight forward document that if a party
24 exercises its right to designate a document, or a
25 transcript in whole or in part as confidential,
26 there's a process that is to be followed. And part
27 of that process does not include taking portions of

1 the confidential document and doing anything with it,
2 besides the limited things that are allowed in this
3 protective order. So would it not include, for
4 example, posting on a website or filing it on the
5 internet in the court file? Do you agree with that?

6 ATTY. WOLMAN: I agree. And it looks like the
7 motion was filed where it was attempted to strip away
8 the confidential information part of that where it
9 did not identify a witness, and but appears that the
10 Court is viewing the - what is confidential and how
11 it's treated broader. And so we will abide that
12 going forward certainly.

13 THE COURT: Just give me one moment. And
14 looking at motion for commission to take Hillary
15 Clinton's deposition that was filed on July 1, 2021,
16 apparently in the middle of the deposition of the
17 lead plaintiff, what portion of - you can just read
18 it to me, because I don't have the transcript of the
19 lead plaintiff. But, read to me right from that
20 motion what portions in your mind were taken from the
21 confidentially designated deposition.

22 ATTY. WOLMAN: Certainly your Honor. There's
23 one sentence. Everything else is based upon a matter
24 of public record. So, there's only one sentence.
25 The witness claimed not to know her legal fees were
26 being paid.

27 THE COURT: Okay. Thank you. Anything further?

1 ATTY. WOLMAN: When someone says refusing to
2 answer, I don't believe is a statement of confident -
3 it's confidential information itself. So the
4 preceding sentence. So, no, it would just be that
5 one sentence.

6 THE COURT: So Attorney Wolman, where did the
7 information come from that a plaintiff has refused to
8 answer the questions?

9 ATTY. WOLMAN: Well, that's information that -

10 THE COURT: Some of -

11 ATTY. WOLMAN: - that's saying - I apologize for
12 interjecting. Please?

13 THE COURT: If it - if it came from a transcript
14 that was marked as confidential, then why isn't that
15 confidential? I don't know. I wasn't at the
16 deposition, and I don't have the deposition
17 transcript. But if at the deposition the witness
18 refused to answer a certain line of inquiry, and that
19 was at a deposition where the transcript was marked
20 highly confidential, how could that information be
21 gleaned anywhere else?

22 ATTY. WOLMAN: I mean, your Honor, it is a
23 little difficult here because we've also called the
24 Court in the middle of confidential depositions. And
25 the Court has posted transcripts of those colloquies
26 without any form of sealing. This is - it's an
27 unusual circumstance, but we're talking about

1 questions and non-responses. I don't think is
2 information that we're dealing with.

3 THE COURT: So the sentence on advice of
4 counsel, at least one plaintiff has refused to answer
5 how so many of the clients all ended up represented
6 by the same firm. That was not information that was
7 gleaned from the deposition that we're talking about.

8 ATTY. WOLMAN: It's not information gleaned from
9 the deponent. It's an argument of counsel that is
10 not any of the information that it would be subject
11 to the protective order. The questions and non-
12 answers that just - we were talking to the Court
13 about can we make inquiry as to the settlements. Can
14 we ask a witness about that, and we were before the
15 Court and there was no effort made to seal anything.

16 THE COURT: Attorney Wolman, I apologize because
17 it really might be me not understanding what you're
18 saying. But the sentence that I just recited that
19 refers to how many clients all ended up represented
20 by the same firm. That was not information that was
21 taken from the confidential transcript?

22 ATTY. WOLMAN: At that point no transcript had
23 been prepared, certainly by the -

24 THE COURT: Attorney Wolman, you're really
25 splitting hairs here and it concerns me that you
26 don't understand what your obligations are under the
27 protective order. That's why I'm going through this

1 exercise.

2 ATTY. WOLMAN: Okay. It's our understanding -

3 THE COURT: You know what I can do? I can have,
4 if you can't give me a straight answer, I can have
5 you lodge a copy of the deposition transcript,
6 because I can read. I can read what this motion that
7 was filed by Attorney Pattis says, then I look at the
8 deposition transcript and I could see if that was
9 contained in there. I - this is a straight question,
10 and I expect a straight answer. Unless you don't the
11 answer, which I accept. If you don't know the answer
12 to something, if you do not know whether that
13 question was asked at that deposition, that's okay
14 with me.

15 Then I will ask someone else if they know, or
16 I'll have the transcript lodged with the Court. And
17 I can read and I can figure it out. This is not -
18 I'm not looking for argument on it. It's just a very
19 simple question that I just can't get a straight
20 answer to. So you represented to me, and I accept
21 your representation because you're a Commissioner of
22 the Court and you have a duty of candor to the Court.
23 I asked this simple question of what in this motion
24 was taken from the deposition. Okay. And you gave
25 me the one sentence.

26 And now we're talking about this other sentence,
27 and since I wasn't at the deposition and I don't

1 presently have a copy of the transcript, I'm asking
2 you the question. And the question was, the
3 sentence, the preceding sentence on advice of counsel
4 at least one plaintiff has refused to answer how so
5 many of the client's all ended up represented by the
6 same firm. My question is, at the deposition that
7 we're talking about, was that question asked, the
8 question, how many clients ended up represented by
9 the same firm? It's a yes or a no, or an I don't
10 know.

11 ATTY. WOLMAN: I believe it was asked. I don't
12 have the transcript in front of me. But again, it's
13 a question as to whether or not the confidential
14 information is what the witness testifies to, rather
15 than the question and non - arguments of counsel and
16 non-responses. Because we haven't treated it that
17 way throughout this case, when we called the Court
18 during depositions designated confidential. So
19 questions and non-responses have not been treated
20 that way.

21 THE COURT: Anything further?

22 ATTY. WOLMAN: No, your Honor.

23 THE COURT: Thank you. Who's arguing in
24 opposition?

25 ATTY. MATTEI: I am, your Honor.

26 THE COURT: When you're ready.

27 ATTY. MATTEI: Well, I have to say, I am more

1 alarmed now than I was before the argument. Because
2 what I've just heard is counsel for Alex Jones say,
3 that prior to the very middle of this hearing, he
4 thought it would have been acceptable to disseminate
5 to the world, personal, highly sensitive information
6 about my client's, so long as he didn't identify them
7 by name.

8 There is no reading of the protective order that
9 would permit that. Any material, whether it's a
10 document or a deposition transcript that is
11 designated as confidential, and any information
12 derived from that confidential information, is
13 protected, period. The protective order doesn't
14 speak in terms of, well, if you don't identify the
15 person by name, it applies specifically to
16 information.

17 And what happened here, we're in the very first
18 deposition of the very first plaintiff. In the
19 middle of the deposition after our clients had been
20 made aware that their information was protected by a
21 protective order and that the Court had the authority
22 to do that and enforce it. They disseminate to the
23 public, information that is clearly and unequivocally
24 and undeniably drawn from the deposition testimony
25 itself.

26 And I sat here during this last colloquy, Judge,
27 where you're trying to get Attorney Wolman to simply

1 admit that the statement in their motion for a
2 commission, quote, on advice of counsel, at least one
3 plaintiff has refused to answer how many of the
4 clients all ended up represented by the same firm.
5 He refused to admit that that statement was drawn
6 from the deposition, when of course that's the only
7 place it could have been drawn from. It's the first
8 deposition. They're claiming the plaintiff refused
9 to answer. A refusal to answer, I guess in Attorney
10 Wolman's tortured reading isn't actually information.
11 Perhaps it doesn't even count as an answer itself.

12 When they're asked, as they were, and I'm happy
13 to provide the transcript and Attorney Wolman knows
14 this, although he won't admit it to the Court, they
15 were asked - the plaintiff was asked repeatedly, are
16 you refusing to answer the question?

17 And the witness responded. I'm refusing to
18 answer that question on the advice of counsel.
19 Precisely what counsel with the Jones defendant's put
20 in their motion. And yet we're told by Attorney
21 Wolman that that does not count as confidential
22 information. And so we are left to wonder what else
23 the Jones defendants may unreasonably later claim was
24 unclear about the protective order.

25 And I want to go back to the context here,
26 because as troubling as it was that they were
27 essentially laying in weight during the first

1 deposition, to disclose confidential information.

2 The context here matters. This is the first
3 deposition of the first plaintiff, in which
4 undoubtedly highly sensitive information concerning
5 their lives, their medical history, their mental
6 health history, issues relating to damages; issues
7 relating to their deceased children are going to be
8 discussed. The most highly sensitive and personal of
9 information. And in that first deposition, they
10 choose to go public with information that our clients
11 had every reasonable expectation would be protected.

12 And it occurred in the midst of a 13 hour
13 deposition. No other deposition has lasted that
14 long. And the reason that they did that, is to send
15 the chilling message that you've already identified
16 to future witnesses and future plaintiff's, that they
17 better be careful about discussing openly their
18 personal information, their personal details of their
19 lives, because there may be a chance that before
20 their lawyers can protect them, Jones' lawyers are
21 going to the court and put it in the pleading.

22 And we've since received information that other
23 non-party witnesses are concerned about Jones'
24 conduct and his counsels' potential retaliation for
25 providing honest testimony in this case. So it's no
26 accident that this happened there in the first
27 deposition. It's no accident that it happened during

1 the context of what we consider to have been an
2 abusively long deposition. And if you ever have a
3 chance to read the entire transcript, I'm sure you
4 would agree. It was designed to set a tone for their
5 conduct for the rest of the case. And that's what
6 they did. And these unconvincing pleas that somehow
7 the protective order was unclear, because number one,
8 we didn't think that it applied to information, we
9 thought it only applied to the identities of the
10 people giving information. That's the first argument
11 we heard today. And then number two, well if it's a
12 non-response, although that may be information, it's
13 unclear whether that's confidential information,
14 because it's a non-response. It is, I think
15 inexcusable that our clients would give information
16 to Mr. Jones and his attorney's, when they have shown
17 such a disregard for the protective order.

18 And we would ask the Court to make a finding
19 that the conduct here was likely to lead to the
20 chilling effect that the Court has already expressed
21 it had grave concerns about. And even more so now,
22 given counsel's refusal initially to acknowledge that
23 there had even been a violation, and then his
24 tortured answers and responses to the Courts
25 questions.

26 ATTY. WOLMAN: your Honor, it's my - actually
27 it's my confidential -

1 ATTY. CERAME: Your Honor -

2 THE COURT: One moment. One moment. Attorney
3 Cerame.

4 ATTY. CERAME: Yes, your Honor. I was actually
5 present at this deposition. I just want to correct a
6 couple of representations that were made by Attorney
7 Mattei, that I felt I need to correct the record or
8 just set something straight.

9 It was a long deposition. It was also one where
10 I participated very actively. I don't always do so.
11 In part because it was the first deposition. I
12 recall that I started asking questions about 5 p.m.
13 The witness was offered repeatedly if she wanted to
14 come back another day. She declined to do so. So I
15 started late, right? So I took a long time too. I
16 had a lot of questions. And I took a long time, and
17 I was very - for a number of reasons. It might be
18 apparent in the transcript. I just wanted to say
19 that.

20 For one thing in response to what Attorney
21 Mattei said here. There were a number of - it was
22 contentious. There was - it was unusually
23 contentious as someone coming in. And I wanted to
24 say that too. Some of the accusations I hear from
25 Attorney Mattei seem to be Ad hominem's, presuming to
26 derive intent. None of this personal identifying
27 information was really - is what was discussed in any

1 of the motions. But it was a very contentious
2 deposition, and I just wanted to note that for the
3 record, so the Court had that context of things.
4 That's all.

5 THE COURT: Thank you.

6 ATTY. WOLMAN: And I would ask -

7 THE COURT: One moment. Before I hear from
8 Attorney Wolman, I did want to ask you Attorney
9 Mattei, if there was any other portion of what was
10 designated as confidential. Any other sentences in
11 that motion for commission on the Hillary Clinton
12 deposition that we're taken from the deposition.
13 Since I don't have the transcript.

14 ATTY. MATTEI: There were no other sentences of
15 their motion for commission that were drawn from the
16 deposition. We do think that including them in a
17 motion for commission for Hillary Clinton's
18 deposition and some of the other statements within
19 the motion, were designed to ostensibly identify who
20 the plaintiff was, because it's public knowledge
21 about Ms. Lafferty's involvement in Ms. Clinton's
22 campaign. And so we think that that was essentially
23 a backdoor way to identify who the plaintiff was.

24 But the only two sentences are the ones that
25 were specifically drawn from the deposition itself,
26 are the ones that we cited in our motion.

27 THE COURT: Thank you. Attorney Wolman, you

1 have the floor.

2 ATTY. WOLMAN: Your Honor, I'm not aware of any
3 backdoor way. We could have been deposing any
4 witness. And in fact, the only parties that have
5 disclosed who the witness was, was the plaintiff's.
6 The motion does not say it was the first deposition
7 of the first plaintiff at all - or it's the lead name
8 plaintiff, in any way, shape or form. We haven't
9 said that in any respect, in terms of the - in that
10 motion. That's the plaintiff's disclosure and it's
11 theirs to make. Who says it's my disclosure - mine
12 to make that at least the question itself, not
13 necessarily the answer, or the non-answer is mine.

14 But what the question is, that's certainly my
15 information to disclose or at least - or other
16 co-counsel, as the case may be. There is no -
17 there's nothing chilling here. This was - I
18 understand the Court has viewed that, but we need to
19 view it in the context. This was not the issue of
20 who saw what doctor, with what condition. And who
21 has done what? What's their income? What's their
22 damages? It's nothing of the sort. It's a motion
23 for commission, where if the Court views it as two
24 sentences, we got the non-answer is an answer. Okay,
25 fine. And we'll understand that again going forward.

26 This was not - this is the first time that had
27 come up. There have been no other breaches from our

1 part since. We've taken many depositions, and that
2 hasn't happened in the slightest. No one has been
3 chilled. This was something designed as a motion to
4 take the commission and to the extent it was
5 misinterpreted as to what could be revealed and what
6 couldn't be. We understand that and we have ever
7 even since the motion for sanctions was filed in the
8 immediate aftermath, we haven't done anything of the
9 sort.

10 We've been very conservative in our approach
11 here, with the exception of discussions with the
12 Court as to questions and answers at depositions that
13 the Court needs to adjudicate. So, we firmly respect
14 the Court's protective order. We recognize that it's
15 an order we agreed to and it was just misunderstood
16 that -

17 THE COURT: Attorney Wolman, just to correct
18 what you're saying. It's an order that you filed,
19 that you submitted to the Court. You didn't agree to
20 it. It's not an order of the Court that you agreed
21 to. You actually filed it.

22 ATTY. WOLMAN: And people -

23 THE COURT: Your office filed it and drafted it.
24 Maybe you had conversations with the plaintiff's
25 counsel. You asked the Court to approve the order,
26 correct?

27 ATTY. WOLMAN: I understand. And you know,

1 Legislators often draft things that they don't fully
2 comprehend the implications of their own language.
3 So it can happen that an author doesn't really
4 realize that this is what's the full ramifications.

5 We've got thousands of statutes on the books,
6 where the Legislators didn't realize that they'd be
7 applied in a particular way. But, if we're going to
8 do a textual analysis, it is what it is. And
9 certainly we respect this is how the Court is
10 interpreting the order. We didn't expect it would be
11 that way.

12 And now we understand that this is how it's
13 being interpreted, and we fully abided it, even once
14 the hint of a violation raised by opposing counsel
15 was made. We've fully gone with that rigorous
16 interpretation.

17 ATTY. MATTEI: Just a couple of points.

18 THE COURT: Can I just you Attorney Wolman, what
19 steps when you said as soon as it was filed. I did
20 not see any corrective steps taken by the defendant's
21 once the confidential information was filed in the
22 Hillary Clinton motion. I did see the July 19, 2021
23 filing, which brought forth other arguments,
24 different arguments that you're making today. So
25 today this is more of a, we were confused, we didn't
26 think that it applied to information contained in the
27 confidential depositions, as long as we didn't give

1 the name. That's a new argument from the July 19
2 filing.

3 And the other new argument is, well, if - we
4 didn't realize that it was an objection or
5 non-responsive that we didn't realize that was
6 confidential either. Those are different argument's
7 that you made in the - from the July 19th filing,
8 which those arguments were more along the lines were,
9 well it was a bad designation, and shouldn't have
10 been designated, and the Court had no good cause to
11 issue a protective order in the first place. The
12 protective order that you asked the Court to grant
13 that you filed. So do you want to address that at
14 all?

15 ATTY. WOLMAN: Certainly, your Honor. I believe
16 that the arguments that I've made today are subsumed
17 within the filing. That - to the extent that there
18 was a violation, you know, this was not an
19 intentional violation. And that goes to, again, this
20 is not what we expected it to mean.

21 THE COURT: And when you say it wasn't
22 intentional, how was it not intentional exactly?

23 ATTY. WOLMAN: The witness was not specifically
24 identified. It was not meant to violate any
25 witnesses' confidentiality, but rather simply to
26 raise a generic issue with the Court as to plaintiffs
27 in general. Not really revealing any one particular

1 witnesses confidential information.

2 THE COURT: Attorney Cermane, anything further?

3 ATTY. CERAME: I would note just briefly. I
4 think that what Attorney Wolman is saying is, that
5 there was a difference of opinion about the
6 interpretation of the order. I stay so - I don't
7 want to get anywhere near that I'll say, because it
8 is so contentious. It seems like to me just I can
9 understand how someone might have a different
10 understanding of the order. The parties might have a
11 different understanding of it. That's all I have to
12 say, your Honor.

13 THE COURT: So I do intend to impose sanctions.
14 I do think that - I reject the arguments that were
15 made in the July 19, 2021 filing by the defendant's.
16 I reject the arguments that were made today by
17 defense counsel. I think that the arguments were
18 baseless, and I think the behavior really is
19 unconscionable. There is no confusion. There can be
20 no confusion about a very straight forward protective
21 order that counsel themselves filed and asked the
22 Court to approve. And I am concerned about a
23 chilling effect on the testimony of other witnesses.

24 So we are going to leave and I may schedule
25 another court date because there's a lot of ground to
26 cover. The next time we convene, I want to address
27 also the Google analytics documents, the social media

1 documents and any other discovery issues. So it may
2 very well - and address what sanctions are going to
3 enter, so it may very well be that we have another
4 hearing before our hearing in November. Because we
5 really have quite a bit of ground to cover.

6 Because of the concerns that I've voiced, and
7 because of what I've heard from counsel for the Alex
8 Jones defendant's and in part Attorney Cerame,
9 because of your comments, I am very concerned that
10 the defendant's in this case having expressed
11 confusion of a very clear protective order, that
12 there are going to be problems in the future. I
13 suggest strongly for your own interests, as well as
14 your client's interests, that you are err on the side
15 of the caution and seek advice from the Court if you
16 have any concerns about how to proceed.

17 So rather than just file a motion, where you're
18 concerned whether or not, given what you've said,
19 that you have any concerns that may be confidential
20 information. That you somehow seek the Court's
21 intervention, so that you don't get yourself in a
22 situation where more damage is done.

23 So with that, we'll adjourn on this matter.

24 Thank you, counsel.

25 (The matter concluded.)
26
27

DKT NO: X06-UWY-CV186046436-S : COMPLEX LITIGATION DKT
ERICA LAFFERTY : JUDICIAL DISTRICT WATERBURY
v. : AT WATERBURY, CONNECTICUT
ALEX EMRIC JONES : OCTOBER 20, 2021

DKT NO: X06-UWY-CV186046437-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

DKT NO: X06-UWY-CV186046438-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, G.A. #4, Waterbury, Connecticut, before the Honorable Barbara Bellis, Judge, on the 20th day of October, 2021.

Dated this 21st day of October, 2021 in Waterbury,
Connecticut.



Darlene Orsatti

Court Recording Monitor